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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,993	08/21/2003	Kathryn Chinn	07844-599001 / P552	1127
21876	7590	01/10/2008	EXAMINER	
FISH & RICHARDSON P.C.			BAKER, CHARLOTTE M	
P.O. Box 1022			ART UNIT	
MINNEAPOLIS, MN 55440-1022			PAPER NUMBER	
			2625	
			MAIL DATE	
			DELIVERY MODE	
			01/10/2008	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,993

Applicant(s)

CHINN ET AL.

Examiner

Charlotte M. Baker

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application:
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-30, 33-55 and 58-75 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 31, 32, 56 and 57 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 08/21/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/05/2007 have been fully considered but they are not persuasive. Regarding Applicant's remarks that Hawksworth does not teach the invention as claimed, Examiner respectfully traverses. Attention is drawn to Applicant's arguments on p. 22 of the amendment. Specifically, Applicant argues based upon the definition in the Specification which states that the mixed color group is itself a container object that aggregates a collection of mixed color swatches. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., mixed color group is itself a container object that aggregates a collection of mixed color swatches) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition, Applicant discloses on p. 6 of the Specification, "The mixed color swatches that result from the combinations can be represented on a computer screen or monitor." Examiner feels that Hawksworth does teach the invention as claimed. Please see rejections below.

2. Applicant's arguments with respect to claims 6-7, 31-32 and 56-57 have been considered but are moot in view of the new ground(s) of rejection. These claims have now been objected to. Please refer to "Allowable Subject Matter" heading below.

Specification

3. The disclosure is objected to because of the following informalities: remove "WHAT IS CLAIMED IS:" from p. 11 of the Specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 8-30, 33-55 and 58-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Hawksworth (US 2004/0118310 A1).

Regarding claim 1: The structural elements of apparatus claim 26 perform all of the steps of method claim 1. Thus, claim 1 is rejected for the same reasons discussed in the rejection of claim 26.

Regarding claim 2: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 27 perform all of the steps of method claim 2. Thus, claim 2 is rejected for the same reasons discussed in the rejection of claim 27.

Regarding claim 3: Hawksworth satisfies all the elements of claim 2. The structural elements of apparatus claim 28 perform all of the steps of method claim 3. Thus, claim 3 is rejected for the same reasons discussed in the rejection of claim 28.

Regarding claim 4: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 29 perform all of the steps of method claim 4. Thus, claim 4 is rejected for the same reasons discussed in the rejection of claim 29.

Regarding claim 5: Hawksworth satisfies all the elements of claim 4. The structural elements of apparatus claim 30 perform all of the steps of method claim 5. Thus, claim 5 is rejected for the same reasons discussed in the rejection of claim 30.

Regarding claim 8: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 33 perform all of the steps of method claim 8. Thus, claim 8 is rejected for the same reasons discussed in the rejection of claim 33.

Regarding claim 9: Hawksworth satisfies all the elements of claim 8. The structural elements of apparatus claim 34 perform all of the steps of method claim 9. Thus, claim 9 is rejected for the same reasons discussed in the rejection of claim 34.

Regarding claim 10: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 35 perform all of the steps of method claim 10. Thus, claim 10 is rejected for the same reasons discussed in the rejection of claim 35.

Regarding claim 11: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 36 perform all of the steps of method claim 11. Thus, claim 11 is rejected for the same reasons discussed in the rejection of claim 36.

Regarding claim 12: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 37 perform all of the steps of method claim 12. Thus, claim 12 is rejected for the same reasons discussed in the rejection of claim 37.

Regarding claim 13: Hawksworth satisfies all the elements of claim 12. The structural elements of apparatus claim 38 perform all of the steps of method claim 13. Thus, claim 13 is rejected for the same reasons discussed in the rejection of claim 38.

Regarding claim 14: Hawksworth satisfies all the elements of claim 12. The structural elements of apparatus claim 39 perform all of the steps of method claim 14. Thus, claim 14 is rejected for the same reasons discussed in the rejection of claim 39.

Regarding claim 15: Hawksworth satisfies all the elements of claim 12. The structural elements of apparatus claim 40 perform all of the steps of method claim 15. Thus, claim 15 is rejected for the same reasons discussed in the rejection of claim 40.

Regarding claim 16: Hawksworth satisfies all the elements of claim 12. The structural elements of apparatus claim 41 perform all of the steps of method claim 16. Thus, claim 16 is rejected for the same reasons discussed in the rejection of claim 41.

Regarding claim 17: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 42 perform all of the steps of method claim 17. Thus, claim 17 is rejected for the same reasons discussed in the rejection of claim 42.

Regarding claim 18: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 43 perform all of the steps of method claim 18. Thus, claim 18 is rejected for the same reasons discussed in the rejection of claim 43.

Regarding claim 19: Hawksworth satisfies all the elements of claim 18. The structural elements of apparatus claim 44 perform all of the steps of method claim 19. Thus, claim 19 is rejected for the same reasons discussed in the rejection of claim 44.

Regarding claim 20: Hawksworth satisfies all the elements of claim 18. The structural elements of apparatus claim 45 perform all of the steps of method claim 20. Thus, claim 20 is rejected for the same reasons discussed in the rejection of claim 45.

Regarding claim 21: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 46 perform all of the steps of method claim 21. Thus, claim 21 is rejected for the same reasons discussed in the rejection of claim 46.

Regarding claim 22: Hawksworth satisfies all the elements of claim 21. The structural elements of apparatus claim 47 perform all of the steps of method claim 22. Thus, claim 22 is rejected for the same reasons discussed in the rejection of claim 47.

Regarding claim 23: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 48 perform all of the steps of method claim 23. Thus, claim 23 is rejected for the same reasons discussed in the rejection of claim 48.

Regarding claim 24: Hawksworth satisfies all the elements of claim 1. The structural elements of apparatus claim 49 perform all of the steps of method claim 24. Thus, claim 24 is rejected for the same reasons discussed in the rejection of claim 49.

Regarding claim 25: Hawksworth satisfies all the elements of claim 24. The structural elements of apparatus claim 50 perform all of the steps of method claim 25. Thus, claim 25 is rejected for the same reasons discussed in the rejection of claim 50.

Regarding claim 26: Hawksworth discloses receive data representing a first color representing a first ink (spot colors, par. 36) and a second color representing a second ink (process colors, par. 36) and one or more color parameters for each of the first and second colors (Fig. 1); and define a first mixed color group (Fig. 3, swatch list) including a first plurality of mixed color swatches

each representing a mixture of an amount of the first color and an amount of the second color (Fig. 1 and par. 36), the amounts of the first color and the second color for each of the mixed color swatches (Fig. 3, swatch list) being defined according to a function of the color parameters of the first and second colors (Fig. 1) (par. 36 and par. 46).

Regarding claim 27: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses display a representation of the first mixed color group (Fig. 1).

Regarding claim 28: Hawksworth satisfies all the elements of claim 27. Hawksworth further discloses the instructions operable to cause the computer program to display a representation of the first mixed color group (Fig. 1, color mixing tool) includes instructions operable to cause the computer program to display a representation of the first plurality of mixed color swatches as an arrangement of discrete colors (Fig. 1 and pars. 35-36).

Regarding claim 29: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses the first ink is a spot ink (Fig. 1, spot colors) (pars. 35-36).

Regarding claim 30: Hawksworth satisfies all the elements of claim 29. Hawksworth further discloses the second ink is a spot ink or a process ink (Fig. 1, process colors) (pars. 35-36).

Regarding claim 33: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses the instructions operable to cause the computer program to receive data representing the first (spot color) and second colors (process color) and the one or more color parameters includes instructions operable to cause the computer program to receive user input (Figs. 2 and 4 and pars. 39, 41 and 42).

Regarding claim 34: Hawksworth satisfies all the elements of claim 33. Hawksworth further discloses the instructions operable to cause the computer program to receive user input includes

include instructions operable to cause the computer program to receive user input in a graphical user interface (Figs. 1, 2 and 4 and pars. 39, 41 and 42).

Regarding claim 35: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses the instructions operable to cause the computer program to receive data representing the first (spot color) and second colors (process color) and the one or more color parameters (Figs. 2 and 4 and pars. 39, 41 and 42) includes instructions operable to cause the computer program to receive data from a memory (memory is an inherent feature of a computer and a computer is what the software is running in, par. 5).

Regarding claim 36: Hawksworth satisfies all the elements of claim 35. Hawksworth further discloses the instructions operable to cause the computer program to receive data representing the first (spot color) and second colors (process color) and the one or more color parameters includes instructions operable to cause the computer program to receive at least one of the first color (spot color), the second color (process color), or one of the one or more color parameters separately (Figs. 1 and 4 and pars. 49-51).

Regarding claim 37: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses operable to cause the computer program to: receive data representing a third color representing a third ink (Figs. 4 and 6); and define a second mixed color group of swatches based on the first mixed color group and the third color (Figs. 4 and 6 and pars. 51-58 and Table 3).

Regarding claim 38: Hawksworth satisfies all the elements of claim 37. Hawksworth further discloses the third color (Figs. 4 and 6) is represented by one of the mixed color swatches of the first mixed color group (Figs. 4 and 6 and pars. 51-58 and Table 3).

Regarding claim 39: Hawksworth satisfies all the elements of claim 37. Hawksworth further discloses the instructions operable to cause the computer program to define a second mixed color group (Figs. 4 and 6 and pars. 51-58 and Table 3) include instructions operable to add one or more color swatches to the first mixed color group based at least in part on the third color (Figs. 4 and 6 and pars. 51-58 and Table 3).

Regarding claim 40: Hawksworth satisfies all the elements of claim 37. Hawksworth further discloses the instructions operable to cause the computer program to define a second mixed color group (Figs. 4 and 6 and pars. 51-58 and Table 3) include instructions operable to redefine the first mixed color group (Figs. 4 and 6 and pars. 51-58 and Table 3) by substituting the third color for one of the first color or the second color (Figs. 4 and 6 and pars. 51-58 and Table 3).

Regarding claim 41: Hawksworth satisfies all the elements of claim 37. Hawksworth further discloses wherein the instructions operable to cause the computer program to receive a second mixed color group (Figs. 4 and 6 and pars. 51-58 and Table 3) include instructions operable to cause the computer program to define a second mixed color group (Figs. 4 and 6 and pars. 51-58 and Table 3) including a second plurality of mixed color swatches each representing a mixture of an amount of two or more of the first color (Figs. 4 and 6 and pars. 51-58 and Table 3), the second color and the third color (Figs. 4 and 6 and pars. 51-58 and Table 3), the amounts of each color for each of the mixed color swatches being defined according to a function of the color parameters of the corresponding color (Figs. 4 and 6 and pars. 51-58 and Table 3).

Regarding claim 42: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses instructions operable to cause the computer program to store the first plurality of mixed

color swatches in association with the first mixed color group (Figs. 1, 4 and 6 and pars. 51-58 and Table 3).

Regarding claim 43: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses operable to cause the computer program to: receive user input specifying a change to the first mixed color group (Figs. 2 and 4 and pars. 39, 41 and 42); and modify the first mixed color group according to the specified change (Figs. 2 and 4 and pars. 39, 41 and 42).

Regarding claim 44: Hawksworth satisfies all the elements of claim 43. Hawksworth further discloses the first color represents a spot ink (Fig. 1, spot ink); the instructions to receive user input include instructions to convert the first color to two or more colors, where the two or more colors represent process inks (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 51-58 and Table 3); and the instructions to modify the first mixed color group include instructions to determine the percentage of the two or more colors representing process inks required to produce the mixed color swatches of the first mixed color group (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3).

Regarding claim 45: Hawksworth satisfies all the elements of claim 43. Hawksworth further discloses the user input identifies a mixed color swatch of the first plurality of mixed color swatches (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 51-58 and Table 3); and the instructions operable to cause the computer program to modify the first mixed color group include deleting the identified mixed color swatch from the first mixed color group (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3).

Regarding claim 46: Hawksworth satisfies all the elements of claim 43. Hawksworth further discloses operable to cause the computer program to: define at least one tint for one of the mixed

color swatches (Table 3, tint %); and modify the first mixed color group to include a swatch representing the at least one tint (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3).

Regarding claim 47: Hawksworth satisfies all the elements of claim 46. Hawksworth further discloses operable to cause the computer program to: display a representation of the modified first mixed color group (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3).

Regarding claim 48: Hawksworth satisfies all the elements of claim 46. Hawksworth further discloses receive a change to a parameter of at least one mixed color swatch (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3); and modify the mixed color swatch according to the received change (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3).

Regarding claim 49: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses associate a mixed color swatch of the plurality of first mixed color swatches with one or more locations in a document (Fig. 2, digital artwork and pars. 37-39, 41-42 and 50-58).

Regarding claim 50: Hawksworth satisfies all the elements of claim 26. Hawksworth further discloses receive a change to a parameter of the mixed color swatch (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3); modify the mixed color swatch according to the received change (Fig. 2 and pars. 39, 41 and 42) (Figs. 4 and 6 and pars. 50-58 and Table 3); and associate the modified mixed color swatch with the one or more locations in the document (Fig. 2, digital artwork and pars. 37-39, 41-42 and 50-58).

Regarding claim 51: Arguments analogous to those stated in the rejection of claim 26 are applicable.

Regarding claim 52: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 27 are applicable.

Regarding claim 53: Hawksworth satisfies all the elements of claim 52. Arguments analogous to those stated in the rejection of claim 28 are applicable.

Regarding claim 54: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 29 are applicable.

Regarding claim 55: Hawksworth satisfies all the elements of claim 54. Arguments analogous to those stated in the rejection of claim 30 are applicable.

Regarding claim 58: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 33 are applicable.

Regarding claim 59: Hawksworth satisfies all the elements of claim 58. Arguments analogous to those stated in the rejection of claim 34 are applicable.

Regarding claim 60: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 35 are applicable.

Regarding claim 61: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 36 are applicable.

Regarding claim 62: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 37 are applicable.

Regarding claim 63: Hawksworth satisfies all the elements of claim 62. Arguments analogous to those stated in the rejection of claim 38 are applicable.

Regarding claim 64: Hawksworth satisfies all the elements of claim 62. Arguments analogous to those stated in the rejection of claim 39 are applicable.

Regarding claim 65: Hawksworth satisfies all the elements of claim 62. Arguments analogous to those stated in the rejection of claim 40 are applicable.

Regarding claim 66: Hawksworth satisfies all the elements of claim 62. Arguments analogous to those stated in the rejection of claim 41 are applicable.

Regarding claim 67: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 42 are applicable.

Regarding claim 68: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 43 are applicable.

Regarding claim 69: Hawksworth satisfies all the elements of claim 68. Arguments analogous to those stated in the rejection of claim 44 are applicable.

Regarding claim 70: Hawksworth satisfies all the elements of claim 68. Arguments analogous to those stated in the rejection of claim 45 are applicable.

Regarding claim 71: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 46 are applicable.

Regarding claim 72: Hawksworth satisfies all the elements of claim 71. Arguments analogous to those stated in the rejection of claim 47 are applicable.

Regarding claim 73: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 48 are applicable.

Regarding claim 74: Hawksworth satisfies all the elements of claim 51. Arguments analogous to those stated in the rejection of claim 49 are applicable.

Regarding claim 75: Hawksworth satisfies all the elements of claim 74. Arguments analogous to those stated in the rejection of claim 50 are applicable.

Allowable Subject Matter

5. Claims 6-7, 31-32 and 56-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M. Baker whose telephone number is 571-272-7459. The examiner can normally be reached on Monday-Friday 8:30-5:00.

Application/Control Number:
10/646,993
Art Unit: 2625

Page 15

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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PRIMARY PATENT EXAMINER